

HOUSE BILL 340

**49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009**

INTRODUCED BY

Andy Nuñez

AN ACT

RELATING TO THE ENVIRONMENT; AMENDING A SECTION OF THE AIR  
QUALITY CONTROL ACT TO PROVIDE FOR ANY NEW EMISSION STANDARDS  
TO TAKE EFFECT IN 2015.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 74-2-5 NMSA 1978 (being Laws 1967,  
Chapter 277, Section 5, as amended) is amended to read:

"74-2-5. DUTIES AND POWERS--ENVIRONMENTAL IMPROVEMENT  
BOARD--LOCAL BOARD.--

A. The environmental improvement board or the local  
board shall prevent or abate air pollution.

B. The environmental improvement board or the local  
board shall:

(1) adopt, promulgate, publish, amend and  
repeal regulations consistent with the Air Quality Control Act

.174224.1

underscored material = new  
[bracketed material] = delete

underscored material = new  
[bracketed material] = delete

1 to attain and maintain national ambient air quality standards  
2 and prevent or abate air pollution, including regulations  
3 prescribing air standards, within the geographic area of the  
4 environmental improvement board's jurisdiction or the local  
5 board's jurisdiction, or any part thereof; and

6 (2) adopt a plan for the regulation, control,  
7 prevention or abatement of air pollution, recognizing the  
8 differences, needs, requirements and conditions within the  
9 geographic area of the environmental improvement board's  
10 jurisdiction or the local board's jurisdiction or any part  
11 thereof.

12 C. Regulations adopted by the environmental  
13 improvement board or the local board may:

14 (1) include regulations to protect visibility  
15 in mandatory class I areas to prevent significant deterioration  
16 of air quality and to achieve national ambient air quality  
17 standards in nonattainment areas; provided that such  
18 regulations:

19 (a) shall be no more stringent than but  
20 at least as stringent as required by the federal act and  
21 federal regulations pertaining to visibility protection in  
22 mandatory class I areas, pertaining to prevention of  
23 significant deterioration and pertaining to nonattainment  
24 areas; and

25 (b) shall be applicable only to sources

.174224.1

underscoring material = new  
[bracketed material] = delete

1 subject to such regulation pursuant to the federal act;

2 (2) prescribe standards of performance for  
3 sources and emission standards for hazardous air pollutants  
4 that, except as provided in this subsection:

5 (a) shall be no more stringent than but  
6 at least as stringent as required by federal standards of  
7 performance; and

8 (b) shall be applicable only to sources  
9 subject to such federal standards of performance;

10 (3) include regulations governing emissions  
11 from solid waste incinerators that shall be at least as  
12 stringent as, and may be more stringent than, any applicable  
13 federal emission limitations;

14 (4) include regulations requiring the  
15 installation of control technology for mercury emissions that  
16 removes the greater of what is achievable with best available  
17 control technology or ninety percent of the mercury from the  
18 input fuel for all coal-fired power plants, except for coal-  
19 fired power plants constructed and generating electric power  
20 and energy before July 1, 2007;

21 (5) require notice to the department or the  
22 local agency of the intent to introduce or permit the  
23 introduction of an air contaminant into the air within the  
24 geographical area of the environmental improvement board's  
25 jurisdiction or the local board's jurisdiction; and

.174224.1

underscored material = new  
[bracketed material] = delete

1 (6) require any person emitting any air  
2 contaminant to:

3 (a) install, use and maintain emission  
4 monitoring devices;

5 (b) sample emissions in accordance with  
6 methods and at locations and intervals as may be prescribed by  
7 the environmental improvement board or the local board;

8 (c) establish and maintain records of  
9 the nature and amount of emissions;

10 (d) submit reports regarding the nature  
11 and amounts of emissions and the performance of emission  
12 control devices; and

13 (e) provide any other reasonable  
14 information relating to the emission of air contaminants.

15 D. Any regulation adopted pursuant to this section  
16 shall be consistent with federal law, if any, relating to  
17 control of motor vehicle emissions. Implementation of any  
18 state or local emissions standards for new motor vehicles  
19 registered in New Mexico shall not become effective before  
20 model year 2015.

21 E. In making its regulations, the environmental  
22 improvement board or the local board shall give weight it deems  
23 appropriate to all facts and circumstances, including but not  
24 limited to:

25 (1) character and degree of injury to or

.174224.1

underscored material = new  
~~[bracketed material]~~ = delete

1 interference with health, welfare, visibility and property;  
2 (2) the public interest, including the social  
3 and economic value of the sources and subjects of air  
4 contaminants; and

5 (3) technical practicability and economic  
6 reasonableness of reducing or eliminating air contaminants from  
7 the sources involved and previous experience with equipment and  
8 methods available to control the air contaminants involved."

9 - 5 -  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25